IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

**O R D E R**

Smt. Meenakshi Vs. Rakesh alias Ranjeet Singh

**S.B.CR. REVISION PETITION NO.344/2007**

DATE OF ORDER :: August 16, 2007

**PRESENT**

**HON'BLE MR.JUSTICE H.R.PANWAR**

Mr.Pradeep Shah, for the petitioner.
Mrs. Deepika Vyas, for respondent .

**BY THE COURT:**

By the instant criminal revision petition under section 397 read with section 401 Cr.P.C., the petitioner has challenged the order dt. 20.1.2007 passed by the Judge, Family Court, Udaipur (for short `the family court' hereinafter), whereby the family court granted monthly allowance of maintenance at the rate of Rs.1000/- in favour of the petitioner and against the respondent from the date of order. Aggrieved by the order impugned, the petitioner has filed the instant revision petition seeking enhancement of monthly allowance of maintenance as also from the date of filing of the application instead of the date of order.

I have heard learned counsel for the parties. Perused the order impugned. I have carefully gone through the statements of the witnesses recorded by the family court.

It is contended by the learned counsel for the petitioner that the respondent earns a sum of Rs.4000/- per month as he is serving on an auto parts shop as also he has two plots and there are some tenants in his house,from which he earns Rs.2000/- P.M.

Learned counsel for the respondent submits that the petitioner has failed to establish such an income of the respondent. In fact, the respondent is engaged on a private auto parts shop and his monthly income is Rs.1500/- only. However, the family court determined the income of the respondent as Rs.3000/- per month.

On careful perusal of the statements of the witnesses, in my view, it has not been established that the respondent earns Rs.4000/- per month. This fact has not been disputed that the respondent is serving on an auto parts shop and the income determined by the family court, keeping in view the salary of a person serving on a private auto parts shop even assuming that a labour can earns Rs.100/- per day, comes to Rs.3000/- per

month and keeping in view the income of the respondent, the family court granted monthly allowance of maintenance in favour of petitioner. In my view, no case for further enhancement is made out unless the income of respondent is proved beyond Rs.3000/- per month. However, the family court fell in error in granting the monthly allowance of maintenance from the date of order.

A Division Bench of this Court in Smt. Savita Sharma vs. Shri Krishan Murari, **1990 (1) RLR 400** held that the maintenance should be from the date of application. In this view of the matter, the order impugned deserves to be modified to the extent the petitioner is entitled for the monthly allowance of maintenance from the date of application instead of date of order.

The order impugned is modified to the extent the petitioner is entitled for monthly allowance of maintenance at the rate of Rs.1000/- per month from the date of application instead of date of the order.

With these modifications, the revision petition stands disposed of.

(H.R.PANWAR),J.

m.asif/-